

AMENDED IN SENATE JANUARY 6, 1998

SENATE BILL

No. 858

Introduced by Senator Lewis

February 26, 1997

~~An act to amend Section 1861.03 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately. An act to add Section 11624.8 to the Insurance Code, relating to insurance.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 858, as amended, Lewis. Automobile insurance: ~~notice of cancellation~~ assigned risk plan.

Existing law requires the Insurance Commissioner to administer and operate an assigned risk plan that offers basic automobile bodily injury and property damage liability insurance to applicants who are in good faith entitled to but are unable to procure that insurance through ordinary methods. Under the plan, these applicants for automobile insurance are assigned to participating carriers for coverage.

This bill would require the plan to provide specified insurance-related information concerning persons and vehicles insured by an assigned risk policy to any admitted insurer and licensed property or casualty agent or broker who requests the information and pays a fee to cover the cost of producing the information. The bill would require the information to be used solely for the solicitation of persons currently covered by an assigned risk policy in order to offer the sale of automobile insurance from admitted insurers, and

would provide that the information provided is subject to certain disclosure and authorization requirements.

The bill would also make legislative findings in this regard.

~~Existing law provides that a notice of cancellation or nonrenewal of a policy of automobile insurance shall be effective only if it is based upon one or more of certain specified reasons.~~

~~This bill would make that provision inapplicable to any policy or coverage that has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer, unless it is a renewal policy or good driver discount policy.~~

~~The bill would declare that it is to take effect immediately as an urgency statute.~~

~~This bill would amend a provision contained in Proposition 103. That proposition prohibits an amendment to its provisions by statute except to further its purposes and requires a $\frac{2}{3}$ vote.~~

~~Vote: $\frac{2}{3}$ majority. Appropriation: no. Fiscal committee: no yes. State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 1861.03 of the Insurance Code is~~
- 2 *SECTION 1. The Legislature finds and declares all of*
- 3 *the following:*
- 4 *(a) The California Automobile Assigned Risk Plan was*
- 5 *established as a market of last resort for those individuals*
- 6 *unable to otherwise obtain automobile liability coverage*
- 7 *necessary to comply with the state's financial*
- 8 *responsibility laws.*
- 9 *(b) The Legislature intends to make the automobile*
- 10 *insurance market more competitive. This may be*
- 11 *accomplished through marketing efforts by insurers,*
- 12 *agents, and brokers offering additional insurance options*
- 13 *and rates to individuals who have had difficulty in*
- 14 *obtaining automobile insurance. These consumers will*
- 15 *benefit from access to additional sources of insurance.*
- 16 *(c) The purpose of this act is to require the California*
- 17 *Automobile Assigned Risk Plan to make available to*



1 *licensed insurers, agents, and brokers insurance-related*
2 *information on those persons insured under the plan in*
3 *order to allow those insurers, agents, and brokers to offer*
4 *those persons private passenger automobile insurance*
5 *coverage through a source other than the plan.*

6 SEC. 2. Section 11624.8 is added to the Insurance
7 Code, to read:

8 11624.8. (a) Every admitted insurer and every
9 licensed property or casualty agent or broker shall be
10 entitled to receive insurance-related information from
11 the plan concerning the persons insured by the plan,
12 upon payment of a fee equal to the cost of producing the
13 information. The fee shall be determined by the
14 commissioner in consultation with the advisory
15 committee created by Section 11623. The
16 insurance-related information to be provided shall be
17 obtained from the plan application and shall be available
18 in both paper and electronic form, with the electronic
19 format to be determined by the plan. An authorized
20 requester of insurance-related information shall have the
21 option of requesting information on a statewide basis or
22 by geographic regions of the state, in quantities specified
23 by the requester. The insurance-related information shall
24 be grouped by the plan policy number and include all of
25 the following:

26 (1) The name and address of each named insured who
27 applied for a plan policy within the previous 12-month
28 period.

29 (2) For each vehicle insured by the policy, the
30 description, vehicle identification number, and garaging
31 address.

32 (3) For each driver listed on the policy, the name, age,
33 gender, marital status, and driver's license number, and
34 whether the driver is required to file proof of insurance
35 with the Department of Motor Vehicles pursuant to
36 Division 7 (commencing with Section 16000) of the
37 Vehicle Code.

38 (4) Coverages and limits requested.

39 (b) Insurance-related information obtained from the
40 plan may be used solely for the solicitation of persons in

1 order to offer the sale of private passenger automobile
2 insurance from admitted insurers, excluding insurance
3 offered by the plan. Any person or entity obtaining
4 insurance-related information from the plan under this
5 section shall agree to indemnify the plan with respect to
6 any liability related to the use of the information.

7 (c) The insurance-related information provided
8 under this section is subject to the restrictions set forth in
9 Article 6.6 (commencing with Section 791) of Chapter 1
10 of Part 2 of Division 1.

11 amended to read:

12 ~~1861.03. (a) The business of insurance shall be~~
13 ~~subject to the laws of California applicable to any other~~
14 ~~business, including, but not limited to, the Unruh Civil~~
15 ~~Rights Act (Sections 51 to 53, inclusive, of the Civil Code),~~
16 ~~and the antitrust and unfair business practices laws (Parts~~
17 ~~2 (commencing with Section 16600) and 3 (commencing~~
18 ~~with Section 17500) of Division 7 of the Business and~~
19 ~~Professions Code).~~

20 (b) ~~Nothing in this section shall be construed to~~
21 ~~prohibit (1) any agreement to collect, compile and~~
22 ~~disseminate historical data on paid claims or reserves for~~
23 ~~reported claims, provided such data is~~
24 ~~contemporaneously transmitted to the commissioner, (2)~~
25 ~~participation in any joint arrangement established by~~
26 ~~statute or the commissioner to assure availability of~~
27 ~~insurance, (3) any agent or broker, representing one or~~
28 ~~more insurers, from obtaining from any insurer it~~
29 ~~represents information relative to the premium for any~~
30 ~~policy or risk to be underwritten by that insurer, (4) any~~
31 ~~agent or broker from disclosing to an insurer it represents~~
32 ~~any quoted rate or charge offered by another insurer~~
33 ~~represented by that agent or broker for the purpose of~~
34 ~~negotiating a lower rate, charge, or term from the insurer~~
35 ~~to whom the disclosure is made, or (5) any agents,~~
36 ~~brokers, or insurers from utilizing or participating with~~
37 ~~multiple insurers or reinsurers for underwriting a single~~
38 ~~risk or group of risks.~~

39 (c) ~~(1) Notwithstanding any other provision of law, a~~
40 ~~notice of cancellation or nonrenewal of a policy for~~

1 ~~automobile insurance shall be effective only if it is based~~
2 ~~on one or more of the following reasons: (A) nonpayment~~
3 ~~of premium; (B) fraud or material misrepresentation~~
4 ~~affecting the policy or insured; (C) a substantial increase~~
5 ~~in the hazard insured against.~~

6 ~~(2) This subdivision shall not prevent a reciprocal~~
7 ~~insurer, organized prior to November 8, 1988, by a motor~~
8 ~~club holding a certificate of authority under Chapter 2~~
9 ~~(commencing with Section 12160) of Part 5 of Division 2,~~
10 ~~and which requires membership in the motor club as a~~
11 ~~condition precedent to applying for insurance, from~~
12 ~~issuing an effective notice of nonrenewal based solely on~~
13 ~~the failure of the insured to maintain membership in the~~
14 ~~motor club. This subdivision shall also not prevent an~~
15 ~~insurer which issues private passenger automobile~~
16 ~~coverage to members of groups that were in existence~~
17 ~~prior to November 8, 1988, whether membership,~~
18 ~~franchise, or otherwise, and to those who are not~~
19 ~~members of groups from issuing an effective notice of~~
20 ~~nonrenewal for coverage provided to the insured as a~~
21 ~~member of the group based solely on the failure of the~~
22 ~~insured to maintain that membership if (i) the insurer~~
23 ~~offers to renew the coverage to the insured on a nongroup~~
24 ~~basis, or (ii) to transfer the coverage to an affiliated~~
25 ~~insurer. The rates charged by the insurer or affiliated~~
26 ~~insurer shall have been adopted pursuant to this article.~~
27 ~~However, all of the following conditions shall be~~
28 ~~applicable to that insurance:~~

29 ~~(A) Membership, if conditioned, is conditioned only~~
30 ~~on timely payment of membership dues and other bona~~
31 ~~fide criteria not based upon driving record or insurance,~~
32 ~~provided that membership in a motor club may not be~~
33 ~~based on residence in any area within the state.~~

34 ~~(B) Membership dues are paid solely for and in~~
35 ~~consideration of the membership and membership~~
36 ~~benefits and bear a reasonable relationship to the benefits~~
37 ~~provided. The amount of the dues shall not depend on~~
38 ~~whether the member purchases insurance offered by the~~
39 ~~membership organization. None of those membership~~
40 ~~dues or any portion thereof shall be transferred by the~~

~~1 membership organization to the insurer, or any affiliate
2 of the insurer, attorney in fact, subsidiary, or holding
3 company thereof, provided that this provision shall not
4 prevent any bona fide transaction between the
5 membership organization and those entities.~~

~~6 (C) Membership provides bona fide services or
7 benefits in addition to the right to apply for insurance.
8 Those services shall be reasonably available to all
9 members within each class of membership.~~

~~10 Any insurer that violates subparagraphs (A), (B), or
11 (C) shall be subject to the penalties set forth in Section
12 1861.14.~~

~~13 (3) This subdivision does not apply to any policy or
14 coverage that has been in effect less than 60 days at the
15 time notice of cancellation is mailed or delivered by the
16 insurer, unless it is a renewal policy or a good driver
17 discount policy.~~

~~18 SEC. 2. This act is an urgency statute necessary for the
19 immediate preservation of the public peace, health, or
20 safety within the meaning of Article IV of the
21 Constitution and shall go into immediate effect. The facts
22 constituting the necessity are:~~

~~23 In order to provide practical relief to insurance
24 companies experiencing a tremendous increase in the
25 volume of automobile insurance applications at the
26 earliest possible time, it is necessary that this act take
27 effect immediately.~~